

Companies have been dumping waste at the West Lake Landfill in Bridgeton since the 1950s. Radioactive materials, created as a byproduct of Mallinckrodt Chemical Works, were dumped in a 200-acre hole there beginning in 1973.

So the fact that there are problems at the landfill shouldn't be a surprise. The Nuclear Regulatory Commission investigated the site and published a report in 1977. The [Environmental Protection Agency](#) designated it a Superfund site in 1990, making it eligible for special federal funding to clean up the nation's most hazardous waste sites.

In 2008 — 18 years after the Superfund designation — the EPA leaped into [action](#). The agency announced plans to cover 40 acres of the site, the part determined to be contaminated with nuclear waste, and to require more control and monitoring. The EPA, the guardians of the nation's environment, had to be pushed by environmental activists and concerned people from the community, into asking the companies that might have been responsible for the problem to come up with alternative cleaning options.

You would think the EPA wouldn't have to be pushed. You would think the people who contaminated the site wouldn't have to be "asked." You would think they could be "[ordered](#)." You would be wrong.

Two years ago, the EPA again asked those identified as possibly responsible to gather more data and perform more evaluations. Result? Last year, the EPA announced that the radioactive waste remains contained and poses no safety risk to outlying areas. It would have been a surprise if they'd actually admitted there was a problem.

Thirty-seven years after radioactive waste was casually dumped in a landfill, and after 24 years of studies and foot-dragging and buck-passing, enough already. The people whose homes and businesses surround the site need some relief. The EPA isn't getting it done.

Unfortunately, to change that would take an act of the United States Congress, a body that specializes in not getting things done.

The Missouri Coalition for the Environment; the St. Louis County Council; state Sen. Maria Chappelle-Nadal, D-University City; state Rep. Keith English, D-Florissant; and the Pattonville Fire District are among those calling for a shift of responsibility for the site.

Their main goal is to have the radioactive waste removed. If the EPA can't get an [agreement](#) to make that happen and to make it happen quickly, they want something called the [Formerly Utilized Sites Remedial Action Program](#) put in charge.

The awkwardly named FUSRAP is an environmental remediation program under the direction of the U.S. Army Corps of Engineers. While moving responsibility from one federal agency to another might not sound like much help, evidence shows otherwise.

The West Lake Landfill is the only site in the county contaminated with nuclear waste that is not under the control of [FUSRAP](#). The radioactive waste in Bridgeton came from a place that is now a FUSRAP site.

Here's why the Corps of Engineers is a better idea: FUSRAP doesn't have to ask the companies that will pay for a cleanup if a site needs it. If the corps determines that the site needs cleaning, it does it and then negotiates for payment with the parties responsible for the environmental [hazard](#).

Under the EPA's Superfund program, the financially responsible parties are largely in charge of site studies and of the final [recommendation](#). If they disagree with the EPA's remedy or consider the cost unreasonable — and not surprisingly, they often do — they can sue to keep from cleaning up the [site](#).

Say your neighbor turned his front yard into a dump. A cop could come along and tell him to clean it up. If the cop was from the Corps of Engineers, he could order up a bulldozer and send your neighbor the bill. If the cop was from the EPA, he could say "pretty please" and your neighbor could say no, that's too expensive, and drag things out [indefinitely](#).

Commented [DAH1]: The suggestion that EPA took no action for 18 years following NPL listing is incorrect. EPA began a potentially responsible party search in 1990. This process involved examining site operational history, land records, corporate research, and disposal records. On August 11, 1992, EPA notified Cotter Corporation, Laidlaw Waste Systems, Rock Road Industries, and DOE (Respondents) of their potential liability and provided a draft Administrative Order on Consent for Remedial Investigation/Feasibility Study for negotiation. On March 3, 1993, that Order became effective.

Commented [DAH2]: The 1993 AOC is a legally enforceable "order" and carries with it stipulated penalties (up to \$2,500 per day) and statutory penalties (at that time up to \$25,000 per day) for noncompliance.

Commented [DAH3]: It is not that we "can't get an agreement," we already have an agreement, the 1993 Order, for the RI/FS. Before we can "get an agreement" for implementation of a remedy, we are required by CERCLA and the NCP to consider public comment. Which we have been doing since the ROD was issued in May 2008.

Commented [DAH4]: Not true. Post-Dispatch corrected.

Commented [DAH5]: If there are PRPs the USACE will engage them in the same process that EPA uses - an AOC for the RI/FS and a CD for the RD/RA. From the Department of Army's document entitled *Formerly Utilized Sites Remedial Action Program (FUSRAP) – Site Designation, Remediation Scope, and Recovering Costs*, (ER 200-1-4, August 30, 2003) "[i]n fiscal year 1998, the Energy and Water Development Appropriations Act, Pub. L. 105-62, transferred responsibility for the administration and execution of FUSRAP from DOE to USACE. Provisions in the Appropriations Acts for FY1999 and FY2000 (Pub.L. 105-245 and 106-60) clarified Congressional intent that USACE should conduct cleanup work at FUSRAP sites "subject to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9601 et seq.), and the National Oil and Hazardous Substances Pollution Contingency Plan (40 C.F.R. Part 300)."

Commented [DAH6]: The Respondents to an RI/FS Order typically conduct the RI/FS with EPA and state oversight, which is what happened here. This process of having the PRPs conduct the required work with federal and state oversight comports with EPA's longstanding "Enforcement First" Policy which promotes the "polluter pays" principle and helps to conserve the resources of the Hazardous Substance Trust Fund. While the FS presents a "preferred alternative," the FS is prepared under the direction and with the oversight of EPA and the state. So to state that the liable parties are "in charge" is misleading. EPA, with state concurrence, proposes the remedy in the Proposed Plan, which is then subject to public comment.

Commented [DAH7]: Not true. Per CERCLA, courts lack jurisdiction to entertain lawsuits from PRPs who assert a cause of action against the U.S. because they disagree with EPA's remedy selection. The PRPs' recourse is to refuse to negotiate a Consent Decree for implementation of the remedy, in which case EPA may either issue a Unilateral Administrative Order (UAO) or conduct the work itself suing the Hazardous Substance Trust Fund. Likewise, courts lack jurisdiction to allow a PRP to contest a UAO until such time as EPA brings an action to enforce the UAO, then the PRP has a right to defend.

Commented [DAH8]: EPA has the option of conducting the work itself, but due to EPA's "enforcement first" policy, discussed in Comment 6 supra, it typically will not to promote the "polluter pays" principle and conserve the Hazardous Substance Trust Fund.

Activists and the folks who live near the radioactive waste dump have had it with the EPA. They point out that there's a fire smoldering in the landfill near the radioactive waste and the EPA doesn't think it's a threat. They criticize the EPA for not consulting with the experts at FUSRAP about the radioactive wastes at the site.

The EPA has been in charge of the West Lake Landfill long enough. The people who live and work and play there deserve better than what they're getting.

Turning the radioactive West Lake Landfill over to the Corps of Engineers would still not deal with the smoldering fire and stench at the adjacent Bridgeton Landfill. Those are problems for the state to deal with, and Attorney General Chris Koster is trying to do that.

Last month he asked the St. Louis County Circuit Court to order the company managing the Bridgeton Landfill, **Republic Services**, to provide additional monitoring data and maps showing the concentration of carbon monoxide at various points across the landfill. He also has a legal order requiring Republic to contain and control the noxious fumes and to address the underground smoldering.

Prodded by Mr. Koster, Republic Services offered temporary relocation assistance to local residents affected by the odors. The problem continues but so do efforts to address it.

As to taking responsibility for the radioactive waste away from the EPA and giving it to the Corps of Engineers, that will involve a change in federal law.

This problem has festered during Democratic and Republican administrations alike. The landfills lie in Democratic Rep. William Lacy Clay's congressional district. Mr. Clay should work with Sens. Roy Blunt and Claire McCaskill and the rest of the area's congressional delegation to get it fixed as soon as possible. Send the bills **later**.

Commented [DAH9]: Generally as to FUSRAP. Site entry into FUSRAP occurs through legislation or by the DOE determining that the site is eligible through the application of selection and exclusion criteria. Congress has directed the USACE to conduct remedial actions at FUSRAP sites in a manner consistent with the Comprehensive Environmental, Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 – 9675, and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR Part 300, the authorities and requirements that EPA is operating under as it works toward the remediation of West Lake Landfill. EPA has not requested that DOE or the USACE assume the lead for West Lake Landfill.